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SUBJECT: AFGHAN PARLIAMENT MAKES UNEVEN PROGRESS IN 2008

REF: KABUL 3182 AND PREVIOUS

Classified By: Political Counselor Alan Yu for reasons 1.4 (B) and (D)

¶1. (C/NF) SUMMARY. Afghanistan's Parliament struggled to pass meaningful legislation and find a proper balance between executive and legislative authorities as its 2008 legislative session ended last month. Disorganization, chronic absenteeism and poor professional capacity hampered both houses' ability to overcome ethnic, religious and linguistic squabbles. Parliament ratified a handful of President Karzai's decrees issued before MPs took office in 2005, but dozens more, in addition to newer legislation, still await action. The Lower House overrode several vetoes for the first time, but it remains unclear whether Karzai will recognize the legislature's constitutional authority. When Parliament returns later this month, MPs will try to exert authority over Karzai's Cabinet, calling more ministers before Parliament and holding no-confidence votes on ministers they view as unresponsive.

Veto Overrides Highlight Parliament's Tenuous Relationship With Karzai

¶12. (C/NF) With Parliament often incapable of passing meaningful legislation, Karzai paid little attention to the legislature in 2008. Before becoming Education Minister in October, then-Minister of Parliamentary Affairs Farooq Wardak wore several hats in the Palace and frequently neglected his legislative brief. His lack of attention allowed Lower House Speaker Yunus Qanooni to spring votes overriding a number of Karzai vetoes, including the media law, on the administration by surprise in September. A series of acting ministers have managed the president's legislative agenda with mixed results since Wardak's departure.

¶13. (C/NF) After the veto overrides, the Palace launched a successful lobbying effort for Cabinet confirmations in October and a last-minute flurry to pass government priorities such as a water usage law in November. With MPs elected from non-partisan ballots and Karzai continuing to not endorse any party, the president has no organized base of support for his agenda and still scrambles for votes on routine matters. No MP has been willing to consistently act as Karzai's floor leader or whip, although new Lower House Deputy Speaker Mirwais Yaseni emerged as the most capable of the president's occasional backers.

¶14. (C/NF) The Upper House, with one-third of its members appointed by Karzai, had better relations with the Palace, though there were few occasions when Upper House MPs formalized their support for the administration through legislation. Upper House MPs tended to be more emotional and anti-Coalition than their Lower House counterparts in reaction to civilian casualty incidents, especially following

the July incident in Herat's Shindand district. Upper House Deputy Speaker Hamed Gailani walked a thin line between managing his political ambitions as the head of a coalition of MPs critical of Coalition military operations and maintaining good relations with the international community. Upper House Speaker Sebghatullah Mojaddedi was in poor health for most of the year and missed the majority of sessions.

Parliament's Legal Authority in Question

¶5. (C/NF) Several constitutional disputes emerged in 2008, marking a struggle between legislative and executive authorities. Parliament used its veto overrides to push back against Karzai's dominance, while the Palace undermined Parliament's influence by selectively ignoring its authority.

The Palace has yet to acknowledge the Lower House's eight veto overrides and the Ministry of Justice has not published any of those laws in the official legal gazette. Karzai has also declined to consistently recognize the Lower House's right to remove ministers through no-confidence votes. Karzai disregarded a 2007 no-confidence vote against the foreign minister, while a similar vote in December against the commerce minister resulted in his departure. Cabinet ministers and other officials frequently ignored parliamentary summons, with Karzai's tacit approval.

¶6. (C/NF) Parliament clashed with the Independent Election Commission over the date of the 2009 presidential election, a debate sure to continue. MPs, led by Qanooni, insist the Constitution requires a spring election date. The IEC has argued for the practical necessity of a fall date,

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but has been unable to quiet threats by MPs to contest the legitimacy of any election held after May 2009.

MPs Salvage Some Accomplishments ...

¶7. (U) Parliament achieved a handful of successes in 2008. The Lower House passed the mortgage law, which the Upper House will take up in January. Both chambers approved the private investment law. These are the first in a series of bills designed to bolster the country's economic development. MPs made significant progress on bills regulating water usage, the mining industry, and oil and gas production. Legislators were also quick to condemn the government's July detention of an Ariana TV journalist who had criticized Cabinet ministers.

... But Fail to Make Progress on Key Legislation

¶8. (C/NF) MPs failed to move beyond the bitter divisions that had stalled passage of a new electoral law and led to a lengthy boycott last spring by some MPs upset over seats allocated to Kuchi nomads. New disputes, such as an inane disagreement over using a Dari or Pashto word for university, stalled progress on other routine legislation and inspired more boycott threats. Chronic absenteeism -- the Lower House was unable to maintain a quorum of its 249 members on more than half of its days in session -- and poor participation in committees also contributed to Parliament's weak performance.

Qanooni publicly called out absentee MPs from time to time, briefly improving turnout before a return to the status quo.

MPs Find Their Role in Cabinet Nominations

¶9. (C/NF) Confirmation of Cabinet ministers was the one issue to consistently attract high attendance and quick action from MPs. Three ministers involved in an October Cabinet shuffle won easy confirmation, although Commerce Minister Mir Mohamin Fahrang lost a landslide 127-1 no-confidence vote in December. With secret balloting and

rampant vote buying, many MPs viewed the process as both a cash cow and direct means to influence the Palace. Debate over the ethnic make up of the Cabinet occasionally outshined any review of nominees' qualifications and experience.

¶10. (C/NF) MPs tell us more no-confidence votes are in store for 2009, knowing that ministers will be more responsive to Parliament's questions if their jobs are on the line (not to mention the vote-selling opportunities that would result from more openings in the Cabinet). The Ministers of Energy, Mines, and Information and Culture appear to be MPs' chief targets. Acting ministers holding the transportation, refugees, commerce, and border and tribal affairs portfolios will require confirmation votes when MPs return in January.

Opportunities for Progress in 2009, but MPs Must Act Early

¶11. (C/NF) Laws promoting economic development and rule of law should top Parliament's 2009 agenda. MPs will have a small window soon after they reconvene on Jan. 20 to move the legislative agenda forward before attention swings to the presidential election campaign. Unfortunately, we expect infighting and political posturing will continue to distract MPs from their work.

WOOD